

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

DANIEL NEIL JACKSON,

Plaintiff,

v.

Case No.: 7:22-cv-00090

D. DAMERON, et al.

Defendants.

**KYLE SMITH, MD AND DERINDA DAMERON, RN'S
NOTICE AND MOTION FOR ENLARGEMENT OF TIME**

COME NOW, Kyle Smith, MD (identified in the Complaint as “Dr. K. Smith”, hereinafter “Dr. Smith”) and Derinda Dameron, RN (identified in the Complaint as “D. Dameron, RN”, hereinafter, “Nurse Dameron”), by counsel, and pursuant to the Court’s Order of April 9, 2024 (Doc. 48) hereby provide the following Notice with regard to the medical records requested and the dispositive motion on behalf of Dr. Smith, and also respectfully move this Honorable Court for entry of an Order pursuant to Rule 6(a) of the Federal Rules of Civil Procedure, requesting a very brief additional enlargement of time in which to file the dispositive motion in response to the remainder of the claims set forth in Plaintiff’s Supplemental Complaint (Doc. 39). In support of this request, the following information is provided for the Court’s consideration:

1. Following a Motion filed by these Defendants, the Court entered an Order (Doc. 48) permitting these Defendants to obtain, via subpoena, the necessary relevant medical records from the Virginia Department of Corrections in order to prepare and file a responsive pleading to

the remaining allegations raised in Plaintiff's Supplemental Complaint. A Partial Motion to Dismiss had previously been filed. (Doc. 41);

2. The medical records were subsequently received from the Virginia Department of Corrections, and undersigned counsel is in the process of drafting a Motion for Summary Judgment;

3. Undersigned counsel now provides this Notice, per the Court's Order, (Doc. 48), to advise that due to the complexity of the Plaintiff's pleadings and issues raised therein, the intervening Federal holiday, and the relocation of Dr. Smith outside of the Commonwealth of Virginia, additional time will be needed to complete the Motion in process;

4. Undersigned counsel is requesting, ten (10) additional days from the deadline set by the Court for the filing of the dispositive Motion;

5. Rule 6(b)(1)(A) of the Federal Rules of Civil Procedure provides that "[w]hen an act must be done within a specified time, the court may, for good cause, extend the time with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires."

6. The due date for filing a response has not yet expired, and based on these circumstances, these Defendants submit that good cause exists. As such, these Defendants respectfully move the Court to permit this requested brief extension of time;

7. The Defendants submit that the Motion is being made in good faith, without any intent to delay, and not for any improper purpose. In addition, Plaintiff will in no way be prejudiced by this short delay in filing the response.

WHEREFORE, for the foregoing reasons, Dr. Smith and Nurse Dameron respectfully move the Court for the relief requested herein and ask the Court to accept the information provided in the Notice into the record of this case.

Respectfully submitted,

**KYLE SMITH, MD and
DERINDA DAMERON, RN**

/s/ Grace Morse McNelis

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CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of June, 2024, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system and I further certify that I will mail the document by U.S. mail to the following non-filing user:

Daniel Neil Jackson, 1182398
VADOC Centralized Mail Distribution Center
3521 Woods Way
State Farm, Virginia 23160
Plaintiff, *pro-se*

/s/ Grace Morse McNelis

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